called on Congress to find a rational middle ground between amnesty and mass deportation in the debate over immigration reform. Then, as now, the Senate is moving legislation that would respond to the President's call by simply granting amnesty to millions of illegal immigrants.

But amnesty is not the middle ground. The true middle ground of this national debate would put border security first; reject amnesty and require that all illegal immigrants leave the country and apply outside the United States for the legal right to live and work here; create a new center built on the private sector that could make that an orderly process; temporary workers returning to America would learn English; and employers hiring illegals would face serious penalties.

That is the true rational middle ground, and after the Senate is done with its work, I hope it is the middle ground that we find in this Chamber on behalf of the American people.

MAKING AMERICA LESS DEPENDENT ON FOREIGN OIL

(Mr. KAGEN asked and was given permission to address the House for 1 minute.)

Mr. KAGEN. Mr. Speaker, for too long our Nation has been dependent on foreign oil. Today all of our constituents and all Americans are feeling that lack of independence at the pump. It is time for this Congress to enact realistic and effective energy legislation that will help America become energy independent.

We must begin to invest in the resources we have right here at home. We must work together to create solutions to rely on our own ingenuity rather than the unreliable sources of foreign energy. Some of these solutions begin right on the farm, like in my own district in northeast Wisconsin. Biodiesel, methane digesters, cellulosic ethanol, all of these measures will help us become independent once again. It begins with a $5 million investment in our own family farms, the energy independent family farm program. This provision will be included in the farm bill, and I urge all my colleagues to support it, along with the other positive measures within it.

By investing and creating energy independence on the farm, we will take the first step in becoming less dependent on foreign sources of energy.

PRESIDENT PROPOSING TOO LITTLE TOO LATE

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, for 6 years President Bush and Republican Congresses ignored the record gas prices that seemed to pop up every year just before Memorial Day. Once again this year, American consumers are paying for their inaction.

Finally, last week President Bush announced an executive order addressing this growing problem. Unfortunately, his plan doesn't call for any action until the weeks before he leaves office in 2009, and this is far too little and years too late.

Since taking control of Congress this year, Democrats have already passed measures to reduce the price of gas in this country and invest in renewable energy. We are dedicated to curbing our Nation's addiction to foreign oil and investing in our resources in the Midwest, instead of buying more from the Middle East.

Mr. Speaker, Democrats refuse to stand idly by while gas prices rise across the country. This week we will fight price gouging, something that the past Republican Congresses were unwilling to do.

American consumers need help now, not in 2009, and this new Democratic Congress is going to deliver.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ANDREWS). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

FEDERAL PRICE GOUGING PREVENTION ACT

Mr. RUSH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1252) to protect consumers from price-gouging of gasoline and other fuels, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1252

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Price Gouging Prevention Act''.

SEC. 2. UNCONSCIONABLE PRICING OF GASOLINE AND OTHER PETROLEUM DISTILLATES DURING EMERGENCIES.

(a) UNCONSCIONABLE PRICING.—

(1) IN GENERAL.—It shall be unlawful for any person to sell, at wholesale or at retail in an area and during a period of an energy emergency, gasoline or any other petroleum distillate covered by a proclamation issued under paragraph (2) at a price that—

(A) is unconscionably excessive; and

(B) indicates the seller is taking unfair advantage of the circumstances related to an energy emergency to increase prices unreasonably.

(2) ENERGY EMERGENCY PROCLAMATION.—

(A) IN GENERAL.—The President may issue an energy emergency proclamation for any area within the jurisdiction of the United States, during which the prohibition in paragraph (1) shall apply. The proclamation shall state the geographic area covered, the gasoline or other petroleum distillate covered, and the time period that such proclamation shall be in effect.

(B) DURATION.—The proclamation—

(i) may not apply for a period of more than 30 consecutive days, but may be renewed for such consecutive periods, each not to exceed 30 days, as the President determines appropriate; and

(ii) may include a period of time not to exceed 1 week preceding a reasonably foreseeable emergency.

(3) FACTORS CONSIDERED.—In determining whether a person has violated paragraph (1), there shall be taken into account, among other factors—

(A) whether the amount charged by such person for the applicable gasoline or other petroleum distillate at a particular location in an area covered by a proclamation issued under paragraph (2) during the period such proclamation is in effect—

(i) grossly exceeds the average price at which the applicable gasoline or other petroleum distillate was offered for sale by that person during the 30 days prior to such proclamation;

(ii) grossly exceeds the price at which the same or similar gasoline or other petroleum distillate was readily obtainable in the same area from other competing sellers during the same period;

(iii) reasonably reflected additional costs, not within the control of that person, that were paid, incurred, or reasonably anticipated by that person, or reflected additional risks taken by that person to produce, distribute, obtain, or sell such product under the circumstances; and

(iv) was substantially attributable to local, regional, national, or international market conditions; and

(B) whether the quantity of gasoline or other petroleum distillate the person produced, distributed, or sold in an area covered by a proclamation issued under paragraph (2) during a 30-day period following the issuance of such proclamation increased over the quantity that that person produced, distributed, or sold during the 30 days prior to such proclamation, taking into account usual seasonal demand variations.

(b) FALSE PRICING INFORMATION.—It shall be unlawful for any person to report to a Federal agency information related to the wholesale price of gasoline or other petroleum distillates with actual knowledge or knowledge fairly implied on the basis of objective circumstances that such information is false or misleading.

(c) DEFINITIONS.—As used in this section—

(1) the term ''wholesale'', with respect to sales of gasoline or other petroleum distillates, means either truckload or smaller sales of gasoline or petroleum distillates where title transfers at a product terminal or a refinery, and dealer tank wagon sales of gasoline or petroleum distillates priced on a delivered basis to retail outlets; and

(2) the term ''retail'', with respect to sales of gasoline or other petroleum distillates, includes all sales to end users such as motorists as well as all direct sales to other end users such as agriculture, industry, residential, and commercial consumers.

(d) CONSTRUCTION.—As described in this section, a sale of gasoline or other petroleum distillate does not include a transaction on a futures market.

SEC. 3. ENFORCEMENT BY THE FEDERAL TRADE COMMISSION.

(a) ENFORCEMENT BY FTC.—A violation of section 2 shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)). The Federal Trade Commission shall enforce this Act in the same manner, by the same means, and with the same jurisdiction as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act. In enforcing section 2(a) of this Act, the Commission shall give priority to enforcement actions concerning companies with total United States wholesale or retail sales of gasoline and other petroleum distillates in excess of $500,000,000 per year.

(b) CIVIL PENALTIES.—

(1) IN GENERAL.—Notwithstanding the penalties set forth under the Federal Trade Commission Act, any person who violates this Act with actual knowledge or knowledge fairly implied on the basis of objective circumstances shall be subject to the following penalties:

(A) PRICE GOUGING; UNJUST PROFITS.—Any person who violates section 2(a) shall be subject to—

(i) a fine of not more than 3 times the amount of profits gained by such person through such violation; or

(ii) a fine of not more than $3,000,000.

(B) FALSE INFORMATION.—Any person who violates section 2(b) shall be subject to a civil penalty of not more than $1,000,000.

(2) METHOD.—The penalties provided by paragraph (1) shall be obtained in the same manner as civil penalties obtained under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) MULTIPLE OFFENSES; MITIGATING FACTORS.—In assessing the penalty provided by subsection (a)—

(A) each day of a continuing violation shall be considered a separate violation; and

(B) the court shall take into consideration, among other factors, the seriousness of the violation and the efforts of the person committing the violation to remedy the harm caused by the violation in a timely manner.

SEC. 4. CRIMINAL PENALTIES.

(a) IN GENERAL.—In addition to any penalty applicable under section 3, any person who violates section 2 shall be fined under title 18, United States Code—

(1) if a corporation, not to exceed $150,000,000; and

(2) if an individual not to exceed $2,000,000, or imprisoned for not more than 10 years, or both.

(b) ENFORCEMENT.—The criminal penalty provided by subsection (a) may be imposed only pursuant to a criminal action brought by the Attorney General or other officer of the Department of Justice.

SEC. 5. ENFORCEMENT AT RETAIL LEVEL BY STATE ATTORNEYS GENERAL.

(a) IN GENERAL.—A State, as parens patriae, may bring a civil action on behalf of its residents in an appropriate district court of the United States to enforce the provisions of section 2(a) of this Act, or to impose the civil penalties authorized by section 3(b)(1)(B), whenever the attorney general of the State has reason to believe that the interests of the residents of the State have been or are being threatened or adversely affected by a violation of this Act or a regulation under this Act, involving a retail sale.

(b) NOTICE.—The State shall serve written notice to the Federal Trade Commission of any civil action under subsection (a) prior to initiating such civil action. The notice shall include a copy of the complaint to be filed to initiate such civil action, except that if it is not feasible for the State to provide such prior notice, the State shall provide such notice immediately upon instituting such civil action.

(c) AUTHORITY TO INTERVENE.—Upon receiving the notice required by subsection (b), the Federal Trade Commission may intervene in such civil action and upon intervening—

(1) be heard on all matters arising in such civil action; and

(2) file petitions for appeal of a decision in such civil action.

(d) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this section shall prevent the attorney general of a State from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(e) VENUE; SERVICE OF PROCESS.—In a civil action brought under subsection (a)—

(1) the venue shall be a judicial district in which—

(A) the defendant operates;

(B) the defendant was authorized to do business; or

(C) the defendant in the civil action is found;

(2) process may be served without regard to the territorial limits of the district or of the State in which the civil action is instituted; and

(3) a person who participated with the defendant in an alleged violation that is being litigated in the civil action may be joined in the civil action without regard to the residence of the person.

(f) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION IS PENDING.—If the Federal Trade Commission has instituted a civil action or an administrative action for violation of this Act, no State attorney general, or official or agency of a State, may bring an action under this subsection during the pendency of that action against any defendant named in the complaint of the Federal Trade Commission or the other agency for any violation of this Act alleged in the complaint.

(g) ENFORCEMENT OF STATE LAW.—Nothing contained in this section shall prohibit an authorized State official from proceeding in State court to enforce a civil or criminal statute of such State.

SEC. 6. LOW INCOME ENERGY ASSISTANCE.

Amounts collected in fines and penalties under section 3 of this Act shall be deposited in a separate fund in the treasury to be known as the Consumer Relief Trust Fund. To the extent provided for in advance in appropriations Acts, the fund shall be used to provide assistance under the Low Income Home Energy Assistance Program administered by the Secretary of Health and Human Services.

SEC. 7. EFFECT ON OTHER LAWS.

(a) OTHER AUTHORITY OF FEDERAL TRADE COMMISSION.—Nothing in this Act shall be construed to limit or affect in any way the Federal Trade Commission's authority to bring enforcement actions or take any other measure under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) or any other provision of law.

(b) STATE LAW.—Nothing in this Act preempts any State law.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. RUSH) and the gentleman from Texas (Mr. BARTON) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois.

GENERAL LEAVE

Mr. RUSH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

□ 1030

Mr. RUSH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, gasoline prices are now at record highs. The average price of gas is $3.19 nationwide, with my home State of Illinois having higher prices than any other at $3.46 a gallon. Now, rising gas prices are one thing, and I fully recognize the reality of global oil markets, the current state of our refinery capacity, and the basic laws of supply and demand. But the gouging of American consumers is another matter entirely, and the bill on the floor, H.R. 1252, the Federal Price Gouging Protection Act, ensures that American consumers are protected from companies that will prey on them during emergencies when they are most vulnerable.

I want to commend the gentleman from Michigan (Mr. STUPAK) for a fine piece of legislation that is both thoughtful and careful in its scope. On the one hand, the bill is tough and decisive. It gives the Federal Trade Commission the tools to crack down on and punish those companies that would price-gouge American consumers by unscrupulously taking advantage of unique energy shortages and unconscionably raising the price of gasoline on the American consumer.

On the other hand, the bill explicitly takes into account the totality of market forces, both domestic and international. H.R. 1252 preserves the ability of companies to mitigate against legitimate risks and raise prices as necessary. Simply put, the bill is carefully written such that if a company is found liable of price gouging under this act, then they are in fact price gouging. It is very difficult to argue that we are overreaching or too vague in this bill.

As chairman of the Subcommittee on Commerce, Trade, and Consumer Protection, I fully support Mr. STUPAK's bill and its expeditious treatment on the suspension calendar. It is important for the American people to know we are on the ball, and that this ball is moving quickly to address their concerns. I urge Members of the House to pass the legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. PENCE. Mr. Speaker, I ask unanimous consent to control the time of the gentleman from Texas.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. PENCE. I reserve the balance of my time.

Mr. RUSH. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin (Mr. KAGEN).

Mr. KAGEN. Mr. Speaker, yesterday in my hometown of Appleton, Wisconsin, the price for a gallon of gas hit

$3.45. Since President Bush assumed office, the price for gas has nearly doubled. Higher prices for gas punish all Americans, punish small businesses, students, senior citizens, farmers, and even our local, State and Federal Governments as well.

Everybody is asking, why? Why did the price at the pump go up even when the cost per barrel went down? The most likely answer is price gouging somewhere along the supply line, from the oil company to the refinery to the speculators in the options markets who buy and hold the oil for only a nanosecond.

People everywhere want answers, and here is what we can do. Today the House will consider the Federal Price Gouging Prevention Act. And along with Congressman STUPAK and Congressman RUSH and others, we will put a cop back on the block. What we need is effective and active oversight, not hide-and-seek politics.

Let's take this step together in the right direction. This bill defines what price gouging is. I urge my colleagues to support H.R. 1252.

Mrs. BACHMANN. Mr. Speaker, I ask unanimous consent to claim the time for our side.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Minnesota?

There was no objection.

Mrs. BACHMANN. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. BOUSTANY).

Mr. BOUSTANY. Mr. Speaker, I urge my colleagues to oppose this bill. Let's make no mistake about this. The last-minute changes don't improve this legislation. The revisions are simply fig-leaf changes to provide cover for oil patch Democratic Members who are being strong-armed into voting for this bill.

No matter how much you dress this up, this bill is still about price controls. We tried price controls in the 1970s, and they didn't work. It resulted in mass rationing, long lines at the pump, and consumer outrage. History is quite clear on this.

George Mason University economist Walter Williams has said: ''Politicians of both parties have rushed in to exploit public ignorance and emotion. But there's an important downside to these political attacks on producers.

''What about the next disaster? How much sense does it make for producers to make the extra effort to provide goods and services if they know they risk prosecution for charging what might be seen as 'unconscionable prices'?''

Mr. Williams is right.

The American public deserves better. Congress has the responsibility to pass a balanced, comprehensive energy program that uses innovative technology to explore and expand our domestic energy supply, to move us towards energy independence. The last thing we need to do is to turn back the clock to the failed energy policies of the 1970s. For those reasons, I urge my colleagues to oppose this bill.

Mr. RUSH. Mr. Speaker, I yield 1 minute to the gentleman from Connecticut (Mr. COURTNEY).

Mr. COURTNEY. Mr. Speaker, I strongly support passage of the Price Gouging Prevention Act, and I commend Congressman STUPAK for his leadership on this issue.

In eastern Connecticut, where I come from, the price of gas has reached its highest level in history, $3.26 today, up 31 cents from a month ago, and more than $1 since February.

The Government Accountability Office reported on Tuesday that the increasing gasoline prices have cost consumers an extra $20 billion this year, and we are only in May. That is a tax on consumers. It is a tax on small businesses. It has a ripple effect all throughout our economy.

And this is not just about driving over Memorial Day weekend. This is about whether or not energy prices are going to cripple the ability of this economy to grow and thrive and prosper.

It is time to put accountability into the system. The Stupak bill is not price controls, it is a system to make sure that the price is a fair one and is justifiable according to market conditions. Those are the tools that we are giving to the Federal Trade Commission.

Mrs. BACHMANN. Mr. Speaker, I yield 30 seconds to the gentleman from Louisiana (Mr. BOUSTANY).

Mr. BOUSTANY. Mr. Speaker, I just want to respond to that. We are dealing with a world energy market, a world energy market. This bill basically doesn't seem to understand that prices are set on world markets. Clearly what we need to do is understand that aspect of this to craft a meaningful energy policy.

That is why investment in technology to come up with a broad range of alternative energy sources is the appropriate way to approach this. We don't want to go back to the price controls of the 1970s.

Mr. RUSH. Mr. Speaker, I yield 1 minute to the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY. Mr. Speaker, setting new records in the United States is generally associated with achievements and innovation.

Unfortunately, this week our Nation hit a new record that most consumers are not celebrating. Gasoline prices were reported to reach nationwide averages of $3.20 or higher.

It is not hard to understand these prices if you look at the Republican-controlled Congress' Energy Policy Act of 2005, which provided billions of dollars to the oil and gas companies while spending only pennies on renewable efforts for fuel that would allow us to get ourselves off the dependency on foreign oil.

As Americans, we do not have a history of shying away from a challenge, and there is no reason to step down from the challenge that is ahead of us because of these Republicans. I think we can do better, and our history as Americans show that we will do better if we have the right leadership.

I urge my colleagues to support the Federal Price Gouging Protection Act because it fulfills America's promise to do what Americans can do if they put their mind to it, and that is to do better and get off this dependency on foreign oil.

Mrs. BACHMANN. Mr. Speaker, I reserve the balance of my time.

Mr. RUSH. Mr. Speaker, I reserve the balance of my time.

PARLIAMENTARY INQUIRY

Mr. STUPAK. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. STUPAK. Mr. Speaker, if the other side has no more Members available to speak on this legislation, are they not then required under House rules to yield back the balance of their time?

The SPEAKER pro tempore. The gentleman from Illinois will close.

Mr. STUPAK. Mr. Speaker, what I asked was if the other side has no more speakers available, can they continue to reserve time, or do they have to yield back the balance of their time?

The SPEAKER pro tempore. The gentleman from Illinois may continue to reserve his time.

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent to claim the balance of time on our side.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BARTON of Texas. May I inquire as to how much time I have?

The SPEAKER pro tempore. The gentleman from Texas has 18 minutes remaining. The gentleman from Illinois has 14½ minutes remaining.

Mr. BARTON of Texas. May I further inquire if I am the last speaker? Is Mr. RUSH prepared to close?

Mr. RUSH. Mr. Speaker, we have additional speakers.

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me first say that it is appropriate that the House bring this type of legislation in this Congress before the body because gasoline prices are high, and the American public is concerned about those high prices, so it is not inappropriate to consider legislation of this type. We did it twice in the last Congress, passed an anti-price-gouging bill, once as part of a larger energy package and once as a stand-alone piece of legislation. So there is nothing inappropriate about bringing this before the body.

Having said that, I think it is fair to say that it is inappropriate, at least in my opinion, to bring it before the body in the way it has been brought. The bill that is actually before us, I don't know how many Members of the majority saw this bill as it is currently configured, but nobody in the minority saw it until approximately 2:45 p.m. yesterday afternoon.

When I left the Capitol at approximately 6:15, it had still not been noticed that it was going to be on the suspension calendar this morning. It may have been noticed and I just didn't get that notice, but I was told it was up at 10 a.m. this morning, and now it's 10:45. So those of us in the minority have a certain sense of concern that we've not been contacted. We've not been asked for our input.

□ 1045

We've not been allowed to negotiate, participate in any shape, form or fashion. All we've been allowed to do is come onto the floor, in my case at 10:45, and speak on the bill, and at some point in time, I assume there will be a vote on it.

I did study the bill last evening. I have lots of concerns about this bill. I don't know what ''unconscionably excessive'' means. It's not defined in statute. As far as I can tell, it's not been defined in any case law. Apparently, it's going to be determined on a case-by-case basis.

I also asked my staff to check around, see if there had been price-gouging lawsuits brought in the various States. Over half of the States of our great Union have price-gouging statutes on the books. We're aware of one State, in the State of Kentucky, the Kentucky Attorney General has either filed a suit or prepared to file a lawsuit in Kentucky. There may be others, but that's the only one that I know of.

There's certainly no systemic outbreak of price-gouging lawsuits being filed around the country, and if we really had pandemic price gouging going on, I think the States that have price-gouging statutes would be using their State statues. They're not doing that.

Why is that? Well, again, I'm not a trained economist, but it seems to me that what we have is a case of the chickens coming home to roost. We have not done much, if any, on the supply side for our oil situation in this country in the last 30 years; haven't built a refinery, brand new, from scratch, in almost 35 years. We've put almost every place that has any potential for new oil development off-limits. Can't drill up in ANWR, Alaska; can't drill off the coast of California; can't drill off the coast of Florida; can't drill off the coast of South Carolina, North Carolina; can't drill off a lot of portions of the eastern Gulf of Mexico.

And funny things happen. As we've kind of sat on our supply haunches and not done anything, demand worldwide and domestically has gone up, and as demand goes up, if you don't have some ability to increase the supply, sooner or later that price is going to go up.

Now, I wasn't here to hear Mr. STUPAK's opening statement, and he may not have said this, but he said yesterday in the oversight hearing the price of crude oil has dipped slightly. He doesn't understand why the price of gasoline has gone up. And all you have to do is look at the housing market in northern Virginia to get the answer to that.

I had supper last evening with my son who is working at the Department of Energy. They are living in a home that's probably 35 years old. I don't know what that home cost brand new when it was built, but a good guess would be $30–, $40,000. That price at the time was based on the cost of construction, the cost of the land, fair profit for the builder and real estate agent. So you could say the cost of that property was $30– or $40,000. Well, the people that own the home have just sold it. It wouldn't be appropriate to tell the exact selling price. My son is renting it, but it's over $700,000.

Now, is that price gouging? No. It's what the market demand for housing in northern Virginia is. It's not related to the cost of the property, it's related to the demand for housing in northern Virginia. So those folks have made a nice profit.

Well, the same thing in the oil industry. Demand for oil is going up in China, demand for oil is going up in Europe, demand for oil is going up in Asia, demand for oil is going up in the United States, and if you don't have more of it, price is going to go up. Is that price gouging? No. It is what the market requires to balance limited supply with increasing demand.

The price of gasoline in the United States 3 years ago doubled. Demand actually increased 1 percent. Now, eventually, last time prices got to about $3 a gallon demand did dip slightly, supply increased a little bit, price went back down. Right before the last election, the price in Texas for gasoline got down to about $1.90 a gallon. Since my friends on the other side have won the election and taken over, the price has gone back up to what we see today. Is it their fault? It is not their fault right now. It's not BOBBY RUSH's fault, it's not BART STUPAK's fault, it's not JOHN DINGELL's fault. It's not ED MARKEY's fault over there in the corner. Although I'm tempted to blame Mr. MARKEY, but it wouldn't be fair.

Demand has gone up and supply has not gone up and the price has gone up, and it's going to keep going up until we do something, both on the demand side and the supply side.

So, is this the worst bill that's ever been on the floor of the House of Representatives? No, it's not. Is it the best bill that's ever been on the floor? No, it's not. You know, I think it is a flawed bill. The definitions are not there. The mitigating factors are not there.

We would be well-served, since it's on the Suspension Calendar, to defeat it, get 140, 150 votes, then go back to committee, have some hearings, try to develop a little bipartisanship, bring a different bill to the floor, and probably pass with an overwhelming margin.

So I'm going to vote against this bill, and I'm going to ask that all my colleagues take a serious look at it, vote against it, so we can figure out the right thing to do. And the next time we bring an energy package, don't just bring something that's symbolic to the floor. Let's bring a bill that helps build new refineries. Let's bring a bill that actually increases the supply. Yes, let's bring a bill that might do something to limit demand. I think the time has come to look at some of those bills seriously.

Let's bring a package that actually might do something, other than rhetorical, to bring gasoline prices in the United States back down to levels that we think are more appropriate.

I don't like to pay 3 dollars or more for gas anymore than our constituents do, but this legislation won't do a single thing to keep market prices down or address the reasons gas prices are rising. What it will do is threaten legitimate businesses with huge fines and hard-working people with long jail terms. Furthermore, the bill could quite possibly lead to price controls and 1970s-style gas lines. I oppose the legislation before us today for substantive reasons, as well as based on the process—or lack of process—that has brought this bill to the Floor.

First, Mr. Speaker, I want the American public to understand how the legislative process has broken down in this case. In light of your unprecedented intent to remove the minority's right to a motion to recommit, it should not surprise anyone in this chamber that the bill before us has bypassed the Committee of jurisdiction—The Energy and Commerce Committee—to come straight to the House Floor. The Committee did not hold a legislative hearing. The Committee did not hold a mark up. The only opportunity my Committee Members had to seek input from the Federal regulators with expertise on legislation was yesterday afternoon during an oversight hearing—a hearing in which the Democratic majority did not even have a witness testify who represents the independent gas stations. It's really too bad their voice was not heard, because the little Mom-and-Pop gas store owner who sells 60 percent of the gas in the U.S. could go to jail for up to 10 years under this bill if they price their gas wrong.

On top of my concern for the absence of certain witnesses at our oversight hearing, a new version of this bill was circulated only yesterday afternoon. That's right: we have had less than 24 hours to review the changes, but we are supposed to vote on it. Mr. Speaker, I thought things were going to be fair in this Congress, but I seem to have been mistaken.

The Administration has issued a Statement of Administration Policy Against this bill. It indicates that it will lead to gas shortages and do nothing to help consumers.

On the substance of this legislation, I have serious concerns that this won't have the intended effect. The Federal Trade Commission is the expert on competition policy and has conducted several studies and investigations of the oil and gas markets markets. In its most recent investigation, the FTC studied each segment of the industry after Hurricane Katrina. Guess what they found? No evidence of price manipulation at the refining level. To the contrary, they found a competitive market. Transportation sector? No evidence of manipulation. Inventory levels? Again, no evidence of manipulation. Gasoline futures? You guessed it, Mr. Speaker, no evidence of manipulation.

What the FTC found was a competitive market that responded to the Katrina crisis by changing their priorities and shipping products to the areas that needed it. The FTC has studied the issue repeatedly, and has not found any evidence of price increases that were not a result of a change in market conditions or other factors that may affect the price.

It may surprise Members that the FTC is opposed to a Federal price gouging law. Why? Because they're concerned that it could do more harm to consumers than good. The Secretary of the Department of Energy opposes it, as well as the National Association of Convenience Stores, the U.S. Chamber of Commerce, the Society of Independent Gas Marketers of America, the American Petroleum Institute, and just about every economist who knows that price controls harm consumers when they cause shortages. What is better, higher-priced gas, or no gas at all?

Mr. Speaker, I agree with the sponsor of this bill that people who take unfair advantage of others should be punished. But we already have laws on the books to address those issues at the Federal and state level. Now we are going to add a Federal standard to the patchwork of state laws for gouging—a term which has no legal or economic meaning. I believe it is unnecessary and fear it will return us to the 1970s gas shortages. No retailer will want to supply the market at a higher price and risk being fined millions and going to jail for years. And what wholesaler will risk $150 million in fines and possible jail time if they raise their price more than a competitor?

Mr. Speaker, I know many here would like to go home to their constituents over Memorial Day recess with a gas price gouging bill rather than address substantive Federal Energy Policy that might actually address the factors causing gasoline prices to rise. Republicans were able to pass many energy-related bills when we were in the Majority, though Democrats in the House and Senate voted against almost every piece of legislation that would have increased our domestic energy supply.

I can understand a visitor to California might suspect they are being gouged at the pump when they fill up in San Francisco for upwards of $4 a gallon, but that is just a result of the Federal, State and Local taxes and other state fuel requirements. If something is broken, Mr. Speaker, it is not the free market. This Congress must act to increase domestic supply of gasoline, not enact feel-good legislation that is ill-conceived and ineffective.

Mr. Speaker, I reserve the balance of my time.

Mr. RUSH. Mr. Speaker, I want to remind my friend from Texas that he should take a closer look at the bill. The bill explicitly takes into account market conditions, both domestic and international. The bill has two pages of mitigating factors. If the costs go up, and they are going up, this bill allows companies to capture the costs.

And I would have to just conclude, Mr. Speaker, that my friend from Texas needs to take a closer look at this bill because his arguments are just not true.

Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. I thank Mr. RUSH for yielding me time. I'd like to respond to the gentleman from Texas and some of the claims he made.

First of all, Democrats have only been in the majority for 4 months, and we are looking for ways to end this pain that motorists are feeling every day when they fill up their car at the gas pump, and that is, to bring forth the price-gouging legislation you see before us.

Now, Mr. BARTON says we should not pass this for this reason or that reason. These are just excuses. He complains about the process. With all due respect, we learned the process from Mr. BARTON.

Last year, they brought forth a gas price bill, was introduced on Tuesday, May 2, 2006. Wednesday, May 3, 2006, we voted on it. We never saw it. This bill has been around for over a year. So let's stop the excuses. American people don't want arguments about what process. They want relief at the pump, and that's what we're doing.

Lookit, today Members of the House have a very simple choice. Vote to stand up with consumers, your constituents, who are paying record gasoline prices, nationwide average, record prices, or vote to protect big oil companies' enormous profits.

My bill, H.R. 1252, which has over 120 bipartisan cosponsors, would give the Federal Trade Commission the explicit authority to investigate and punish those who artificially inflate the price of energy. The bill would provide a clear, enforceable definition of price gouging; focus enforcement on the worst offenders, especially companies that sell more than a half billion dollars a year of gasoline. We strengthen penalties, both criminal and civil, with up to triple damage for those who would price-gouge us; and direct the penalties collected to go into the Low Income Home Energy Assistance Program.

Congress must pass without any more excuses this legislation. Today's legislation is truly a first step in addressing the outrageous prices we're seeing at the gas pump.

We'll be working to protect consumers from high natural gas prices. We've introduced the Prevent Unfair Manipulation of Prices legislation to improve the oversight of energy trading in this country, and I hope we can move this legislation later this year.

Last year, the House of Representatives actually voted on a weaker bill, on May 3 as I indicated, brought forth by Republicans on price gouging. We passed that bill under suspension, like we are today, 389–34. The Senate didn't do anything with it.

I'm proud to announce that since the Democrats are in charge, the Senate bill, very similar to my bill, has already made it out of committee, and we expect a vote on it next month. So we can actually bring relief to consumers now that the Democrats are in charge.

Today, every Member has a choice. Side with big oil or side with the consumers who are being ripped off at the gas pump.

I'd like to thank Speaker PELOSI for her work and leadership in bringing this legislation to the floor, also Chairman DINGELL of the full Energy and Commerce Committee, and his staff for their help in putting forth a very fine piece of legislation that is much broader in scope than what we voted on last year, has stronger penalties and will truly give the American people relief at the pump.

Before Members leave for the Memorial Day recess, vote to provide your constituents with some relief at the gas pump. Vote for H.R. 1252.

Mr. BARTON of Texas. Mr. Speaker, how much time do we have on this side?

The SPEAKER pro tempore. The gentleman from Texas has 9 minutes remaining, and the gentleman from Illinois has 11 minutes remaining.

Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. SHADEGG), a member of the committee.

Mr. SHADEGG. Mr. Speaker, I thank the gentleman for yielding and I rise in opposition to this legislation, but I compliment my colleague, the gentleman from Michigan (Mr. STUPAK). He has, in fact, worked diligently on this issue, and I join him in my concern about prices that are charged to the American people. Indeed, he just indicated he would very much like to see relief at the pump, and so would I. I happen to drive a Ford F–250, which does not get good gas mileage, and I, along with others, would like to see relief at the pump. I certainly commend all those who are cosponsors of this legislation as having good intentions.

My concern, however, is that it will not achieve that result. The reality is we do have very high gas prices, and we have prices that have gone up dramatically in just the recent few months. We all want to know the answer for that, and I've spent some time trying to look at it.

Unfortunately, I don't see evidence that there is price gouging and that high gas prices are a result of price gouging. What I see is that they are the result of policies of this government, and it seems to me that we ought to be looking at the policies of this government.

For example, we as a Nation, this Congress, have imposed a tariff on imported ethanol. We could bring in ethanol produced in other countries at a dramatically lower price than the ethanol we're producing in this country today, but instead, we tax that ethanol and make it even higher priced. Last year, when the prices went up, I voted against price-gouging legislation, but I dropped my own bill to suspend that tariff so that we could take advantage of lower-priced ethanol. Unfortunately, the Congress didn't move in that direction.

Two years ago, I went to the commodities market in New York, and they told me the problem with gasoline prices is refineries. We do have a lack of refineries in this country, and I've dropped legislation to encourage the construction of more refineries. I think there is concern that the refinery industry is holding the capacity of those refineries right at the edge so the prices can be the highest possible.

But one of the issues you hear is that part of the reason gasoline prices are so high right now is because of the conversion from winter gas to summer gas. That conversion is compelled by government regulations which drive up the cost and by government regulations which spell out precisely how it must be done and that they must draw down supplies.

It seems to me, before we start tampering with the free market, which has served us so well, and before we start passing very wide ranging legislation of this type, we have to make a decision. Do we want the government to regulate prices? Do we want a huge new bureaucracy in there looking at a poor mom-and-pop gas station to see if they raise prices? Or do we want to look at the policies of this government which have held down supply and which have not met demand?

It seems to me this is simple and straightforward. I understand the urge to do it, but the problem is, if we empower a massive new government bureaucracy, we will not get relief at the pump which Mr. STUPAK wants and which I'd like to see. We will indeed just create a large bureaucracy.

□ 1100

In my home State of Arizona, we have tried this. We have had attorney general after attorney general, even in my tenure, when I was in the attorney general's office, we investigated price gouging and could not find evidence of it. Let's look at the market forces that are causing these high prices. I urge my colleagues to oppose the bill.

Mr. RUSH. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. I thank the gentleman from Illinois, and for his leadership on this bill, and the gentleman from Michigan. The bill before us today would give the Federal Trade Commission the authority to investigate and punish wholesale or retail sale of gasoline or other petroleum distillates at prices that are unconscionably excessive or take unfair advantage of consumers during any presidentially declared national or regional energy emergency.

Now, we hear from the Republicans, don't interfere in the free market. Don't touch the free market. Don't have the Federal Government getting in on the side of the consumers. It's just a matter of supply and demand. That's what the Republicans are arguing. Don't interfere with the free market, even if it goes up to $3.20 a gallon for gasoline, $3.80 a gallon for gasoline, $4 a gallon for gasoline. Don't let the Federal Government help out the consumer.

You know what? The Republicans are right. It is a matter of supply and demand. Consumers are forced to supply whatever money the oil companies demand from the consumers. The oil companies have the consumer over a barrel, a barrel of oil that the oil companies control and that they price. They price it wherever they want to put it.

They tip the consumer upside down, the oil companies do, and they shake money out of the pockets of consumers at the pump. The Christians had a better chance against the lions than the consumer has against the oil companies at the pumps in the United States today.

All we are saying is let's give the Federal Government a sword to get into the battle in the arena on behalf of the consumers in America. And the Republicans are saying, we don't want to arm the Federal Trade Commission so they can help the consumers so that they are not tipped upside down. It is clear that high gas prices are hitting families hard, but they are also causing our economy to stall and to sputter like a jalopy.

The bill before us today addresses one potential cause of high prices: price gouging by the oil companies. It sends a signal to oil companies that there will now be a regulator out there that has been empowered to take action when unconscionably high prices are being charged.

The free market, I don't think so. I think that when we look at this oil market, we understand that the consumer is at the whim of the oil companies.

Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to a member of the committee, Mrs. BLACKBURN of Tennessee.

Mrs. BLACKBURN. I thank the gentleman from Texas.

Mr. Speaker, I do rise today in opposition to this legislation, because I certainly feel that it is going to increase the cost of gasoline to the American people. H.R. 1252 does purport to crack down on price gouging and marketplace manipulation by integrated large oil companies. Yet that is not what this legislation is going to do.

We had a hearing in committee about it yesterday, and I wish, indeed, that we were going to have the bill before us for a markup. What I find in this piece of legislation is that it will put a target on the back of every small business owner who runs and operates a neighborhood convenience store, a filling station or a truck stop. As I said in our hearing yesterday, there are so many of these that are the local gathering spot. These are not people that are going to gouge their neighbors.

You know, I know it is tempting to react to constituents' frustration with high gas prices. We are all frustrated with that. But the way to do it is not passing a hastily drafted price-control legislation. We should be focused on the real problem and work for real results on this issue. That is what our constituents want.

H.R. 1252 is not going to give us the real results. What we are going to see is a turn-back to energy policy, back to the Jimmy Carter era. It is a clumsy attempt, I think, to punish bad actors who take advantage of the public. But the bill adopts some vague language, employs some heavy-handed criminal penalties, some unenforceable civil penalties that no small business owner could afford.

I do think it's a little bit of legislative overkill, and some people would call it unconscionably excessive. They are entitled to that point. It was my hope that Congress would go through regular order, would address some of the issues pertaining to this Nation's energy policy, and look for some real solutions to the root problem.

Mr. RUSH. Mr. Speaker, I yield 10 seconds to the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. In response to the last speaker, this bill does not target mom-and-pop grocery stores. You have to sell half a billion dollars of gasoline products.

Secondly, the record high prices of oil that we are seeing was not under Jimmy Carter. It was under Ronald Reagan in 1981.

Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to Congressman MURPHY of Pennsylvania, a member of the committee.

Mr. TIM MURPHY of Pennsylvania. I thank the gentleman.

One of the things that's important to keep in mind is why are gasoline prices what they are, and it is not the retailer. When we look at what has happened to prices over all, let's keep in mind that we have become more and more dependent upon other nations. When we look at what's contributed to costs, look at this: Crude oil costs are 56 percent of the price; taxes are 18 percent of the price; refining nearly 17 percent of the price; distribution and marketing, nearly 9 percent of the price.

What has happened with regard to crude oil prices, they have doubled since 2004, they have tripled since 2001, and they have gone up over 600 percent since the 1980s.

But what has happened, as the cost of a barrel of oil has gone from $11 a barrel to over $70 a barrel, is Congress has continually stood in the way of trying to come up with more sources. We have abundant supplies. We have the Atlantic coast, the gulf coast, the Pacific coast, the western States and Alaska. Whenever those come up for a vote, Congress shuts it down. Over 90 percent of Federal lands are off-limits to exploring for the vast supplies of oil we have there.

We have shut off some of our other sources, and some are still trying to do that with regard to using coal as another energy source. We have not funded fully the things we need to do for hydrogen fuel cell. We have not gone far enough with conservation, with our automobiles, with reducing homeowner uses.

So between these issues of exploration, conservation, diversification, we have not taken the steps we need to do to truly reduce energy costs. It concerns me greatly that we are moving forward to blaming the retailer when we ought to be looking to blame ourselves. After all, if we have supplies of oil in the gulf coast, which we set off-limits to ourselves, and, yet, we let Cuba explore for them, something is terribly wrong.

I hope that what this Congress does is work more towards energy independence and recognize that it's changing the way we explore for oil and making sure that we do much more for diversification of our sources and conserving our huge energy waste in this country. That is what is going to lower the prices of gasoline.

Until we make this commitment as a Nation, and until we make this commitment as a Congress, we will not see these prices go down.

Mr. RUSH. Mr. Speaker, may I inquire how much time we have remaining?

The SPEAKER pro tempore. The gentleman from Illinois has 7¾ minutes remaining.

Mr. RUSH. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. KLEIN).

Mr. KLEIN of Florida. I thank the gentleman for the time and thank you for the opportunity to speak to this very important issue.

Mr. Speaker, the rising cost of gasoline is causing huge problems for families throughout south Florida, which I represent, and certainly throughout the whole country. In south Florida a gallon of gasoline is well over $3.25 and rising. In fact, there is gas even at $3.59 per gallon in my local area.

What is the excuse this time? Is it disruptions of oil in the Middle East? Not that I am aware of. I haven't heard. Hurricane damage to refineries? No, again. How about the summer driving season? Seems to me this is May. So, again, no excuses, no excuses, but we just hear more and more excuses from oil companies that it's the drivers, it's this or that.

Yes, there are a lot of answers here, but let's focus on where the market manipulation is going on.

In my area, tourism drives the economy. When gas prices go up, the first thing families do is they stay within their budget and cut back on their vacations, vacations that many times are planned to Florida. When gas prices go up, families and businesses feel it, and it negatively impacts every part of our economy.

That's why I am here today to show my strong support for the Federal Price Gouging Prevention Act. This bill, authored by my friend Mr. STUPAK and others, would give the Federal Trade Commission the authority to crack down on the people who price gouge. This bill is an excellent step in the short term because it protects consumers and gives the government the teeth it needs to go after market manipulators.

In the long term, we are only going to solve this problem by moving towards energy independence. American families can no longer afford to rely exclusively on oil for their energy needs. We all know that investing in alternative fuel sources is vital to our national security and to our economy.

Being energy-independent is a goal that many of us have been talking about and working on for many years. That goal has never been more important than it is right now. But today is the time we need to make changes that will reduce gas prices for American consumers now, and in the future let's work towards energy independence.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to a member of the committee, Congressman BURGESS of Texas.

Mr. BURGESS. I thank the gentleman for yielding.

Mr. Speaker, I have grave concerns about the bill before us today, specifically the lack of clarity in defining ''unconscionable.'' I believe this term to be ambiguous, and, in fact, could lead to severe supply shortages in times of national emergency.

Under this proposal, a gasoline station owner could receive civil and criminal penalties totaling $5 million and 10 years in prison for charging ''unconscionable'' prices. Yet there is no clear definition for what is unconscionable.

To add insult to injury, if a station owner were to charge less than the market price, he could also be subject to charges of undercutting the market. Were I a gasoline station owner in a time of crisis, I likely would shut down my pumps and sell Snickers bars and Coca-Colas and try to make money that way.

I am not defending those who would charge unfairly. I firmly believe, and, in fact, in my home State of Texas, we have a strong antigouging price statute already on the books. If it is determined that illegal pricing has occurred, the individuals should be prosecuted to the fullest extent of the law.

But let's be sure we do not create a climate which causes business owners to stop selling gasoline at a time in crisis when we so clearly will need those resources.

Mr. RUSH. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Mr. Speaker, yesterday we had a hearing on gas price gouging, and the Commissioner of the Federal Trade Commission actually came and testified. On page 12 of his testimony, footnote number 24, I would like to quote the following: The statute mandating post-Katrina price investigation effectively defined price gouging as an average price of gasoline available for sale to the public that exceeded its average price in the area for the month before the event, unless the increase was substantially attributable to additional costs in connection with production, transportation, delivery and sale of gasoline in that area, or to national or international markets.

When questioned yesterday, Commissioner Kovacic said, We've used it. We have the definition.

My legislation makes it clear to take these factors into consideration when you determine whether price gouging is going on: How much did it cost delivered at transportation? What was the bill of sale from the supplier. These are factors in the legislation.

The FTC clearly understands it. Members of the House should be able to understand it. Vote ''yes'' on H.R. 1252.

Mr. BARTON of Texas. Mr. Speaker, we have two speakers. I think we have 2 minutes.

The SPEAKER pro tempore. The gentleman from Texas has 1 minute remaining.

Mr. BARTON of Texas. One minute remaining. Then we have one speaker left.

I yield the balance of the time on the minority side to the distinguished minority whip, who is a member of the committee, on leave, Mr. BLUNT of Missouri.

□ 1115

Mr. BLUNT. I thank the gentleman for yielding and for his hard work on these issues, and I also appreciate my colleagues from the committee. But I am here to say to my friends that, as we look at this bill, I don't know what this bill does because the bill is so unclear. It didn't go through our committee. Like the other legislation we passed in this Congress, it is not likely to become law. I believe we have put around 21 bills on the President's desk so far this year, a dozen of them to name post offices. And the reason for that is all of the bills we passed in the House don't create a result, they don't create law.

Let me just refer to one thing. It says you can't sell fuel in an emergency situation at a price that is, (a), ''unconscionably excessive.'' Of course you shouldn't do that. We shouldn't allow that. But we should define what that means.

One of the supporters of the bill has told me, well, every court will decide what that means. I have got to tell you, the mom-and-pop grocery and gasoline station owner can't wonder what every court is going to decide.

This bill is unclear. It needs work. It puts an undue hardship on people that are trying to make a living running a service station, and I urge my colleagues to oppose it.

Mr. RUSH. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, the opponents of this bill, my friends on the other side of the aisle, are asking for this Congress to wait until a more perfect time, a more perfect time to help the American consumer out.

Mr. Speaker, I want to remind my friends on the other side of the aisle that the American people are suffering right now, and they are demanding this Congress to take action right now.

There can never be a more perfect time for this Congress to take action. Now is the time to take action. Now is the time, Mr. Speaker.

Mr. Speaker, I just want to just inform my colleagues that scare tactics will not work this time. If they will look at this bill, they will see that scare tactics are nowhere in this bill. This bill is a scalpel, it is not a meat axe. This bill carefully speaks to the issues that the American people face. This bill is carefully crafted to take into account market conditions, explicitly listing those mitigating factors that will spur the FTC into action.

Any company that gouges should be sought out, should be identified, should be brought before justice, should be brought before the American people in the form of the Federal Trade Commission. A company will be found guilty of price gouging under this bill only, and I repeat, only if they engage in unconscionable pricing. We do not suspend free markets nor do we suspend the laws of supply and demand.

Mr. Speaker, again, the American consumers need us to act, they want us to act, they demand that we do act. Now is the time. Now is the time for us to act. I ask Members of this Congress to vote in favor of this bill.

Mr. DINGELL. Mr. Speaker, H.R. 1252 is intended to stop and punish unscrupulous gasoline price gougers. The bill empowers the Federal Trade Commission to go after gougers at all levels of the gasoline distribution chain and to impose stiff penalties on violators. It also provides authority for the States to go after retail price gougers under Federal law.

The bill is not, however, intended to prohibit all increases in price—only those increases that grossly exceed the supplier's earlier prices and competitors' prices and that do not reflect reasonable responses to an emergency situation.

This bill would not prohibit a seller from raising prices to compensate for extra risks, such as staying open while a hurricane is bearing down, traveling outside an affected area to secure additional supplies and transport them to people in need, or postponing regular maintenance to increase output during an emergency. These are all efforts that ameliorate a dire situation and the bill is not intended to discourage them.

Finally, the bill would permit suppliers to reasonably factor in other local, regional, national, and international market developments in the quickly-changing and uncertain market conditions characteristic of energy emergency situations.

In sum, Mr. Speaker, this bill is intended to prohibit grossly excessive, pernicious, and predatory increases in the price of gasoline during emergencies—but not to prevent or discourage fair and reasonable responses to unusual market conditions.

Mr. LEVIN. Mr. Speaker, as a cosponsor of H.R. 1252, I rise in support of the Federal Price Gouging Prevention Act, and urge its passage by the House.

Gasoline prices are now at record highs. In my home state of Michigan, the average price of regular gas is $3.47 a gallon—a full 66 cents a gallon higher than it was at this time last year. According to the General Accounting Office, the rise in gasoline prices this year has drained consumers of an extra $20 billion. The six largest oil companies announced $30 billion in profits over the first three months of 2007 alone. This is on top of the $125 billion in profits they racked up last year.

The other side says that we should do nothing. They say that it's a world market for oil, and therefore something we cannot control. How then do they explain that the cost of gasoline has been rising even in the face of falling world oil prices? We must face the fact that there is something wrong in the distribution chain, especially during times of energy emergencies such as when Hurricane Katrina hit the Gulf Coast. As a first step in attacking the problem, we need to give the Federal Trade Commission the explicit authority to investigate and punish those who artificially inflate the price of gasoline.

The oil companies oppose this bill. The White House also has indicated that the President may veto the bill. With all due resect, we work for our constituents, not the oil companies and not the White House. I urge the House to stand with consumers and vote for this needed legislation.

Mr. HARE Mr. Speaker, I rise today in strong support of H.R 1252, the Federal Price Gouging Prevention Act. I am proud to be an original cosponsor of this important piece of legislation.

Oil prices are continuing to skyrocket, increasing the burden on American families, small businesses, and individuals who rely on their vehicles for their livelihood. Every day I hear from troubled constituents who are paying over $3.00 per gallon at the pump. Constituents like Richard Benefiel, a small business owner who called me yesterday out of desperation explaining he would have to shut down his shipping operation in less than 30 days unless relief was provided. On the other hand, Exxon-Mobil raked in $9.3 billion between January and March—its best first quarter in history. This is unacceptable.

The bill before us today is a much needed step toward addressing market manipulation by Big Oil and the egregious impact it has on the American consumer. The Federal Price Gouging Prevention Act provides the Federal Trade Commission with new authority to investigate and prosecute energy companies who engage in predatory pricing, market manipulation, and other unfair practices, with an emphasis on those who profit most, thereby providing immediate and much needed relief to consumers.

Yet, this is only the first step in bringing down energy costs. Last year, our Nation hit its highest dependence on foreign oil, importing 771,000 barrels daily from Saudi Arabia and other Organization of Petroleum Exporting Countries, OPEC. This served as a wake-up call for the United States to begin taking measures to decrease our dependence on foreign oil. I refuse to continue to allow OPEC, which accounts for 65 percent of internationally traded oil, to continue to dictate our Nation's gas prices. Antitrust laws must be put into action and greedy oil exporters need to be held accountable.

I am pleased that we voted yesterday to pass H.R. 2264, which authorizes the Justice Department to take legal action against OPEC state-controlled entities who conspire to limit supply or fix the price of oil.

I also believe that building a diverse energy portfolio which focuses on renewable, homegrown energy sources like ethanol, biodiesel, as well as wind, solar, hydro-power and clean-coal technologies is a critical step toward energy independence, which will bring down prices, and clean up our environment.

The Federal Price Gouging Prevention Act is a critical first step in addressing skyrocketing energy costs and I urge all my colleagues to support the bill.

Mr. WELDON of Florida. Mr. Speaker, I rise in opposition to price gouging.

The good news for Florida consumers is that the state of Florida already has the ability to protect consumers from price gouging.

Florida law finds that gouging has occurred when a commodity's price represents a "gross disparity" from the average price of that commodity during the 30 days immediately prior to the declared emergency. This applies unless the increase is attributable to additional costs incurred by the seller or to national or international market trends. In fact, Florida law enforcement fully investigated over 58 cases of alleged gouging after Tropical Storm Rita.

Violators of Florida's anti-gouging law are subject to civil penalties of $1,000 per violation. In 2005, the State of Florida enacted criminal penalties for those who engage in price gouging.

In addition to the protections that Florida consumers already have in place through State law enforcement, the Federal Trade Commission has the authority to investigate and bring charges against those that engage in price gouging.

In a significant departure from previous legislation addressing this issue, Floridians who are gouged would not receive a rebate. Instead, H.R. 1252 would direct any fines collected from gougers to a program that largely benefits the Northeast and the Midwest. Previous legislation on this matter directed that any fines collected from price gouging be returned to the State where the gouging occurred so that the consumers could be reimbursed. H.R. 1252, however, directs that all of these funds instead be placed in the Low Income Home Energy Assistance, LIHEAP, fund. Unfortunately for the residents of Florida, this is a fund that they get little benefit from. The primary beneficiaries LIHEAP grants are those living in the Northeast and Midwest. While New York and Florida have populations that are nearly equal, New York received 10 times the amount of LIHEAP money that Florida received ($247 million for New York vs. $26 million for Florida). Other large beneficiaries include: New York, Michigan, New Jersey, Pennsylvania, Ohio, Wisconsin, and Illinois. In fact, on a per capita basis, no state does worse than Florida when it comes to

LIHEAP. The bottom line is that if Florida consumers get gouged, those living in the Northeast and the Midwest get the rebate.

This bill is more about show than about substance. Even the comprehensive investigation by the Federal Trade Commission, FTC, in the aftermath of hurricane's Katrina and Rita found no gouging or anti-trust violations.

The real driver of price for gas is the growing global demand for energy. The rapid growth in the worldwide demand for crude oil is being driven primarily by economic growth in China, India and the United States.

Ironically, during a Congressional hearing on this bill, the proponents of the bill offered some bizarre testimony. When asked if the oil companies were engaging in collusion—which is already illegal—a proponent of the bill offered that what was being engaged in is "conscious parallelism." He then offered that you cannot prove "conscious parallelism" in court, so this bill does virtually nothing to address that. Another advocate for the price-gouging bill testified before the committee that "drilling [for oil] will do nothing to lower the price of oil." I am concerned that these individuals are so dedicated to an ideology that they defy common sense.

The most important thing we can do to lower the price of gas for American consumers and to ensure our energy independence is to expand domestic energy production, expand refining capacity in the U.S. by reducing excessive burdens, encouraging more nuclear power, fostering the development of renewable energy, and encouraging conservation. Unfortunately, it took us 12 years to end the Democrat filibuster that kept America from developing more oil and gas off the Outer Continental Shelf, OCS. Last year we were successful in opening a small portion of the OCS to oil and gas recovery, and I hope that we can build on that success. Also, last year we secured passage of legislation that allows for greater production of oil and gas from Federal lands. Unfortunately, Democrat leaders have introduced legislation and are holding hearings to close off those sources of domestic energy production. We streamlined regulations for nuclear power plants, yet Democrats are considering injecting new regulations into the process. I was also pleased that we were able to secure passage of renewable energy tax credits. I have cosponsored legislation to extend these tax cuts for renewable energy and conservation so they are not allowed to expire.

The Democrats expression of "outrage" over gas prices is a bit ironic given that they are the ones who have consistently proposed higher gas taxes, higher energy taxes like the proposed BTU tax, and who are presently moving forward with "cap and trade" global warming legislation along the lines of what has been adopted in Europe. As the Washington Post pointed out last month, this cap and trade system has led German consumers to pay 25 percent more for electricity than they did two years ago, while German utilities are making record profits. This higher cost for electricity has made it difficult for some European countries to compete with cheaper foreign imports, resulting in European workers losing their jobs.

The rhetoric simply does not match the policies being advocated by the Democrat majority.

Mr. SPACE. Mr. Speaker, I rise today in support of H.R. 1252, the Federal Price Gouging Prevention Act.

My district is currently experiencing some of the highest gas prices in its history. In several towns in my district, my constituents are paying prices as high as $3.49 per gallon to fill their tanks.

The price of gas is a crippling figure for the people of Southeastern Ohio who depend on their cars and trucks for transportation. Working families frequently commute long distances to reach their places of employment. For these families, the rise in gas prices is essentially an undeserved pay cut.

The farmers in my district also face the challenge of fueling their equipment on which they depend to make their modest profits.

I fear most for the fate of my district's retired and elderly populations. Most of these individuals are on a fixed income that already limits their ability to pay for the prescription drugs and medical visits they need. The rising price of gas places them only further into a bind and forces them to make decisions that no American should ever face.

I co-sponsored H.R. 1252 because I believe it is time for Congress to intervene on behalf of working Americans. This common-sense legislation simply ensures that oil companies play by the rules and offer consumers a fair price for gas, not one that takes advantage of circumstances.

I am a firm believer in the power of the marketplace to deliver the best possible services to American consumers. Free markets drive our economy and make it the most powerful in the world. However, when companies don't play by the rules, they must be punished because it is the consumer that ultimately suffers.

I believe that passage of this legislation offers important protections to the people of my district in their daily battle with the price of gas. I encourage my colleagues to lend their support as well.

Ms. HIRONO. Mr. Speaker, I rise in support of H.R. 1252, the Federal Price Gouging Prevention Act.

I am a proud cosponsor of this bill, which makes it illegal for any company to sell gasoline at excessive prices or to take advantage of market conditions by increasing prices during an energy crisis. It allows the Federal Trade Commission and the States' Attorneys General to bring lawsuits against corporations that charge excessive prices for gasoline. The bill also permits investigations of companies suspected of price gouging and requires honest and accurate reporting of pricing practices.

In the first month of the 110th Congress, the House took away $14 billion in taxpayer subsidies from the oil companies. This money will be reinvested in alternative, renewable energy sources.

Yesterday the House passed a bill by a bipartisan 345–72 vote, a bill that authorizes the Justice Department to take legal action against OPEC state-controlled entities and governments that conspire to limit the supply or fix the price of oil.

Hawaii's consumers pay some of the highest gasoline prices in the Nation. In 1998, the State of Hawaii filed a lawsuit against the major oil companies operating in our state. The lawsuit revealed that 22 percent of an oil company's nationwide dealer profits came from Hawaii, a state that represented only 3 percent of the market. Clearly, Hawaii's consumers were contributing an excessive share of the company's profits in relation to market share.

Since President Bush took office, gas prices have more than doubled, and previous Congresses have failed to protect consumers from price increases. For the first time in years, Congress has begun exercising its oversight responsibilities. This is important given that the six largest oil companies made $30 billion in profits for the first quarter of 2007, on top of the $125 billion in record profits for 2006.

I urge my colleagues to vote for this bill, which aims to reduce the burden of high energy costs on American families and businesses, build on efforts to increase energy efficiency, lessen our dependence on foreign oil, and cut greenhouse gas emissions in the longer term.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. RUSH) that the House suspend the rules and pass the bill, H.R. 1252, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. BARTON of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

PROVIDING EXCEPTION TO LIMIT ON MEDICARE RECIPROCAL BILLING ARRANGEMENTS

Mr. PALLONE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2429) to amend title XVIII of the Social Security Act to provide an exception to the 60-day limit on Medicare reciprocal billing arrangements between two physicians during the period in which one of the physicians is ordered to active duty as a member of a reserve component of the Armed Forces.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 2429

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCEPTION TO 60-DAY LIMIT ON MEDICARE RECIPROCAL BILLING ARRANGEMENTS IN CASE OF PHYSICIANS ORDERED TO ACTIVE DUTY IN THE ARMED FORCES.

(a) IN GENERAL.—Section 1842(b)(6)(D)(iii) of the Social Security Act (42 U.S.C. 1395u(b)(6)(D)(iii)) is amended by inserting after "of more than 60 days" the following: "or are provided (before January 1, 2008) over a longer continuous period during all of which the first physician has been called or ordered to active duty as a member of a reserve component of the Armed Forces".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after the date of the enactment of this section.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. PALLONE) and the gentleman from Texas (Mr. BARTON) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey.